

JESSICA R. PERRY (SBN 209321)  
jperry@orrick.com  
MELINDA S. RIECHERT (SBN 65504)  
mrieichert@orrick.com  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
1000 Marsh Road  
Menlo Park, CA 94025-1015  
Telephone: +1 650 614 7400  
Facsimile: +1 650 614 7401

KATHRYN G. MANTOAN (SBN 239649)  
kmantoan@orrick.com  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
The Orrick Building  
405 Howard Street  
San Francisco, CA 94105-2669  
Telephone: +1 415 773 5700  
Facsimile: +1 415 773 5759

RYAN D. BOOMS (SBN 329430)  
rbooms@orrick.com  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
2100 Pennsylvania Avenue NW  
Washington, D.C. 20037  
Telephone: +1 202 339 8400  
Facsimile: +1 202 339 8500

Attorneys for Defendant  
APPLE INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ASHLEY GJOVIK,  
Plaintiff,  
v.  
APPLE INC.,  
Defendant.

Case No. 23-cv-4597-EMC

**DEFENDANT APPLE INC.'S  
STATEMENT REGARDING SUA  
SPONTE JUDICIAL REFERRAL FOR  
PURPOSE OF DETERMINING  
RELATIONSHIP**

Dept: Courtroom 5, 17th Floor  
Judge: Honorable Edward M. Chen

1 **I. INTRODUCTION**

2 Pursuant to Local Rules 3-12(c) and 3-12(e), Apple Inc. respectfully submits this statement  
 3 in response to Magistrate Judge Cousins’s referral of *Gjovik v. Apple Inc., et al.*, Case No. 25-cv-  
 4 7360 (the “Environmental Case”) to Judge Chen for consideration of whether it is related to *Gjovik*  
 5 *v. Apple Inc.*, Case No. 23-cv-4597 (the “Retaliation Case”) under Local Rule 3-12(a). *See* Dkt.  
 6 No. 256. For the reasons discussed below, any ruling on this issue would be premature and, in any  
 7 event, the Environmental Case and the Retaliation Case do not satisfy clearly the criteria for relation  
 8 under Local Rule 3-12(a).

9 **II. IT WOULD BE PREMATURE TO DETERMINE WHETHER THESE TWO**  
 10 **CASES ARE RELATED.**

11 Given the status of the parties and service on those parties across the two cases, determining  
 12 whether they are related would be premature.

13 On July 25, 2025, Plaintiff filed a voluntary petition for relief under Chapter 7 of the United  
 14 States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) in the U.S. Bankruptcy  
 15 Court for the District of Massachusetts (the “Bankruptcy Court”). *In re Gjovik*, Case No. 25-11496  
 16 (Bankr. D. Mass.) (the “Chapter 7 Bankruptcy”). Immediately upon filing, a Chapter 7 estate  
 17 consisting of substantially all the Plaintiff’s assets was created under 11 U.S.C. § 541 (the “Chapter  
 18 7 Estate”). Also, as required by the Bankruptcy Code, a Chapter 7 trustee was appointed pursuant  
 19 to 11 U.S.C. § 701 (the “Trustee”).

20 Plaintiff’s newly filed Environmental Case is based on events that occurred before she filed  
 21 her Chapter 7 Bankruptcy; indeed, she provided notice of these claims nearly two months before  
 22 commencing the action. As such, the claims raised in the Environmental Case belong to her Chapter  
 23 7 Estate, notwithstanding her efforts to plead around this legal fact or even to seek permission from  
 24 the Bankruptcy Court to pursue the Environmental Case. *See* 11 U.S.C. §§ 323, 704. Under clearly  
 25 established bankruptcy law, the Trustee “‘steps into the shoes of the debtor for the purposes of  
 26 asserting or maintaining the debtor’s causes of action’ ... and has **exclusive** standing to prosecute  
 27 prepetition claims.” *In re Robert*, 432 B.R. 464, 470-71 (Bankr. D. Mass. 2010) (quoting *DiMaio*  
 28 *Fam. Pizza & Luncheonette, Inc. v. The Charter Oak Fire Ins. Co.*, 448 F.3d 460, 463 (1st Cir.

2006)) (emphasis added); *see also In re Dooley*, 399 B.R. 340, 348 (Bankr. D. Mass. 2009) (“The bankruptcy estate includes, subject to limited exceptions, all legal or equitable interests of the debtor in property as of the commencement of the case. ... [Property of the estate] includes claims that a Chapter 7 debtor may have against third parties.”). Put simply, the Trustee is the real party in interest (and the only party with authority) in both the Environmental Case and the Retaliation Case, notwithstanding Plaintiff’s assertions in the Environmental Case to the contrary and her failure to obtain permission from the Bankruptcy Court to pursue the Environmental Case. *See* 11 U.S.C. §§ 323, 704; *see also Apple’s Motion to Stay the Retaliation Case* (Dkt. No. 247). Further, any dispute over whether the Environmental Case is an asset of the Chapter 7 Estate should be resolved in the Bankruptcy Court where the Plaintiff voluntarily sought protection from creditors.<sup>1</sup>

Moreover, the docket in the Environmental Case lacks any indication that Apple or any of the other defendants in the Environmental Case have been properly served. The status of that matter is unsettled—particularly given that there has not yet been any determination by the Trustee as to whether the Environmental Case will remain an asset of the Chapter 7 Estate, and that there is no indication that Apple or the other parties have been properly served. This Court can and should defer any determination as to whether the Retaliation Case and the Environmental Case are related until proceedings in the Bankruptcy Court resolve the issues of who has the capacity to prosecute the claims, and the Trustee and each of the real parties in interest in each case, has had an opportunity to weigh in on the propriety of relating them.

### **III. THE CRITERIA FOR RELATING CASES ARE NOT CLEARLY MET.**

In any event, distinctions between the Retaliation Case and the Environmental Case tell against relating them. Local Rule 3-12(a) provides that “[a]n action is related to another when: (1) [t]he actions concern substantially the same parties, property, transaction, or event; and (2) [i]t appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” These criteria are not clearly

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<sup>1</sup> Perhaps recognizing that she should have resolved her capacity to bring the Environmental Case before commencing that case, the Plaintiff late yesterday, September 11, 2025, indicated to the Bankruptcy Court that she challenges the Trustee’s authority to prosecute the Environmental Case. *See* Bankr. D. Mass. Case No. 25-bk-11496, Dkt. No. 26.

1 met here.

2 **First**, the Environmental Case and the Retaliation Case involve different parties. The  
3 Retaliation Case is brought solely against Apple Inc. The Environmental Case, by contrast, names  
4 Apple Inc. as one defendant among several—including the City of Santa Clara, Kalil/Khalil Jenab,  
5 Jenab Family LP, Jenab Family Ventures LLC, and the Jenab Family Trust.

6 **Second**, the events and property at issue are distinct in the two cases. The Retaliation Case  
7 is centered on whether Apple—as Plaintiff’s employer—retaliated against her for allegedly  
8 complaining about a host of purported issues centered on her workplace at 825 Stewart. *See* Dkt.  
9 No. 179 at 34 (“Ms. Gjovik’s case is essentially a retaliation case[.]”).<sup>2</sup> Apple’s defense in the  
10 Retaliation Case will focus on the legitimate, non-retaliatory reasons why Apple terminated her  
11 employment—specifically, her public disclosure of confidential product information and her failure  
12 to cooperate and provide accurate and complete information during Apple’s investigatory process.  
13 The Environmental Case, on the other hand, is an environmental action alleging that Apple’s  
14 operations at 3250 Scott unlawfully exposed her—as a resident of a nearby apartment complex—  
15 to allegedly harmful chemicals. The Environmental Case is not concerned with Plaintiff’s alleged  
16 protected activity, Plaintiff’s disclosure of confidential product information, or Apple’s termination  
17 of her employment. The Retaliation Case, by contrast, is not concerned with whether any allegedly  
18 unlawful activities occurred at 3250 Scott.

19 **Third**, the two cases are factually and legally distinct, involving different claims requiring  
20 different discovery and presentation of different evidence. In light of the distinctions between the  
21 two cases, it is unlikely that there would be conflicting results were the cases to be managed and  
22 ultimately tried before different judges.

23 All of that said, however, whether the Plaintiff has the capacity to prosecute either case is  
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25 <sup>2</sup> Although Plaintiff has repeatedly attempted to argue that her allegations about alleged  
26 environmental issues at 3250 Scott are germane to the Retaliation Case, the issues are distinct.  
27 Apple denies that Plaintiff complained prior to her termination about any alleged violations of law  
28 at the Apple-operated facility at 3250 Scott (the facility at issue in the Environmental Case); the  
vague statements she alleges she made to her employer Apple about claimed chemical exposure in  
her apartment at 3255 Scott do not suffice to establish that she engaged in any protected activity  
during her employment related to any Apple-operated facility at 3250 Scott.

1 driven by the same fundamental and indisputable facts and law. She is a Chapter 7 debtor, absent  
2 further action in the Chapter 7 Bankruptcy, the Trustee controls her pre-bankruptcy claims, and  
3 both the Retaliation and Environmental Cases are based exclusively on alleged harm occurring  
4 prepetition. For these reasons, neither case should proceed unless and until the Bankruptcy Court  
5 determines that Plaintiff can prosecute either or the Trustee steps in to prosecute either.

6 **IV. CONCLUSION**

7 Apple respectfully submits that it is premature to decide whether the criteria set forth in  
8 Local Rule 3-12(a) for relating the Retaliation Case and the Environmental Case are met even if  
9 distinctions between the cases weigh against entry of an order relating them at this time.

10 Dated: September 12, 2025

ORRICK, HERRINGTON & SUTCLIFFE LLP

11  
12 By: /s/ Jessica R. Perry  
13 JESSICA R. PERRY  
14 Attorney for Defendant  
15 APPLE INC.  
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**CERTIFICATE OF SERVICE**

I am more than eighteen years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, 1000 Marsh Road, Menlo Park, California 94025. On September 12, 2025, I served the following document(s):

**DEFENDANT APPLE INC.'S STATEMENT REGARDING SUA SPONTE  
JUDICIAL REFERRAL FOR PURPOSE OF DETERMINING RELATIONSHIP**

By Electronic Service: On all of the interested parties in this action by transmitting true and correct copies of the documents identified above in portable document format from the email address tmcbride@orrick.com to the email addresses below:

Ashley Gjovik (in pro per)  
[ashleymgjovik@protonmail.com](mailto:ashleymgjovik@protonmail.com)  
[legal@ashleygjovik.com](mailto:legal@ashleygjovik.com)

Plaintiff/Debtor

**Via ECF**

Mark G. DeGiacomo  
[mdegiacono@harrisbeachmurtha.com](mailto:mdegiacono@harrisbeachmurtha.com)  
Harris Beach Murtha Cullina PLLC  
33 Arch Street, 12th Floor  
Boston, MA 02110

Bankruptcy Trustee

**Via Email**

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 12, 2025.

/s/ Tina McBride

Tina McBride